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BY ECF & FACSIMILE (718) 613-2546

Honorable Nicholas G. Garaufis
United States District Judge
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v Vincent Basciano
03 CR 929 (NGG)
05 CR 060 (NGG)
07 CV 421 (NGG) (RML)

Dear Judge Garaufis:

On January 24, 2008, we filed a motion for reconsideration of this Court's January 14, 2008 Order denying Mr. Basciano's petition for a writ of habeas corpus and request for an evidentiary hearing. A week later, on January 31, 2008, we filed a letter from Mr. Basciano and an attached draft of a Memorandum that included, in addition to the support for the motion for reconsideration of the order denying habeas relief, support for a motion for recusal. At the conference on February 1, 2008, the Court directed the defendant to advise by today which version the Court should consider.

At the same time, the Court directed the government to file a submission (also by today) answering two questions: (1) whether recusal is required in light of the government's assertion that it is "likely" to offer the so-called "hit list" as evidence in the '05 trial, particularly at any penalty phase; and (2) whether there should be a hearing.

Given the defendant's previously filed recusal motions (which apply to the habeas case as well as the '03 and '05 criminal cases), the defendant's intent to renew the recusal motions as part of the '03 post-trial motions now scheduled to be filed on February 18, 2008, and the defendant's anticipated response to the government's position on recusal that it is required to file today, we see no need to make a separate motion for recusal at this time in connection with the motion for reconsideration of the January 14th Order denying habeas relief. The document filed on January 24, 2008 (ECF ## 45 (07CV421), 1033 (03CR929) and 403 (05CR060), is the submission we ask the Court to review in ruling on the motion for reconsideration.

Respectfully submitted,

 /s/
Ephraim Savitt, Esq.
Ying Stafford, Esq.
Richard Jasper, Esq.
Jane Simkin Smith, Esq.

cc: All Counsel (by ECF)